

## **REMARKS**

Applicants respectfully request reconsideration of this application as amended. Claims 2-13 and 15-33 have been amended to present the claims in better form for allowance and for possible consideration on appeal. Applicants respectfully request the Examiner to accept the proposed amendments. Claims 28-30 have been previously cancelled without prejudice. No new claims have been added. Therefore, claims 1-27 and 31-33 are presented for examination.

### **35 U.S.C. § 101 Rejection**

Claim 28 stands rejected under 35 U.S.C. §102(e), as being anticipated by Williams, et al., U.S. Patent No. 6,957,269 (“Williams”).

Claims 31-33 have been amended which obviates the rejection. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 31-33.

### **35 U.S.C. § 103 Rejection**

Claims 1-27 and 31-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of Lee, et al., U.S. Patent No. 6,859,435 (“Lee”).

A method comprising:  
identifying a receive capability associated with one or more priority levels of Ethernet traffic for a network device;  
determining a flow control priority level based on one or more of a class-of-service, a type-of-service, a quality-of-service, and a time sensitivity of the Ethernet traffic, wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic; and  
generating a control message including the flow control priority level, the flow control priority level to cause throttling of Ethernet traffic from network devices receiving the control message.  
(emphasis added)

Applicants respectfully disagree with the Examiner's characterization of the references. Williams discloses “[a] network device that controls the communication of data frames between stations receive[d] data frames having different priorities.” (Abstract) Williams further discloses that the network device includes “output control queues . . . [that] include *multiple priority queues for frames having different level of priority.*” (col. 5, lines 34-38; emphasis added) Williams further modifies the standard MAC control to include a “priority field . . . to advantageously enable . . . selectively suspend[ing] data transmissions.” (col. 7, lines 57-58) Williams further discloses that a “priority field may indicate that the receiving station is to suspend transmitting low priority frames.” (col. 9, lines 34-35).

Williams discloses “output control queues may include a *FIFO-type output queue* corresponding to each of the transmit modules in the transmitter. Each of the output queues may include *multiple priority queues for frames having different levels of priority.*” (col. 5, lines 34-38; emphasis added). Williams discloses :[e]ach queue associated with each respective port may be further subdivided into *a low priority queue and a high priority queue . . . high and low priority queues*, respectively, store frame forwarding information associated with high and low priority frames received by the multiport switch.” (col. 8, lines 23-29; emphasis added).

Lee discloses a “receiving node [that] *monitors the priority levels of arriving and departing packets*, and increasing of priority levels of previously stored packets, and thus keeps track of the total space in [a] buffer at [the receiving node] occupied by packets of various priority levels.” (col. 5, lines 62-66).

In contrast, claim 1, in pertinent part, recites “determining a flow control priority level based on one or more of a class-of-service, a type-of-service, a quality-of-service,

and a time sensitivity of the Ethernet traffic, wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic.” (emphasis added). Although Williams discloses queues of high and low priority levels, it does not teach or reasonably suggest “determining a flow control priority level based on one or more of a class-of-service, a type-of-service, a quality-of-service, and a time sensitivity of the Ethernet traffic, wherein the flow control priority level denotes an identified priority level above and/or below which the network device is able to receive Ethernet traffic” as recited by claim 1. (emphasis provided).

Like Williams, Lee also does not teach or reasonably suggest at least such features of claim 1 and thus, Lee does not make up for the deficiencies of Williams. Williams and Lee, neither individually nor when combined, teach or reasonably suggest the elements of claim 1. Accordingly, Applicants respectfully request that the rejection of claim 1 and its dependent claims be withdrawn.

If the Examiner disagrees, Applicants respectfully request the Examiner to specifically indicate where do Williams or Lee disclose the elements of claim 1, such as the element of “determining a flow control priority level based on one or more of a class-of-service, a type-of-service, a quality-of-service, and a time sensitivity of the Ethernet traffic” of claim 1.

Claims 14, 21 and 31 include limitations similar to those of claim 1. Accordingly, Applicants respectfully request that the rejection of claims 14 and 21 and their dependent claims be withdrawn.

## Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

**Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

**Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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